

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BARBARA BEACH, et al.,

Plaintiffs,

v.

UNITED BEHAVIORAL HEALTH,

Defendant.

Case No. [21-cv-08612-RS](#)

ORDER GRANTING STAY

Wit v. United Behavioral Health, 2022 WL 850647 (9th Cir. Mar. 22, 2022), *Tomlinson v. United Behavioral Health*, No. 3:19-cv-6999-RS, and this action all involve challenges to the clinical guidelines that United Behavioral Health used to determine medical necessity under its benefit plans. In *Wit*, the Ninth Circuit has issued a decision that, if it stands, may foreclose all of plaintiffs' claims in *Tomlinson* and at least a substantial portion of plaintiffs' claims here. Briefing on the *Wit* plaintiffs' petition for rehearing *en banc* is underway at the Ninth Circuit. By a stipulated order, a previously imposed stay of proceedings in *Tomlinson* has been extended through the time a mandate issues in *Wit*.

Plaintiffs in all three actions are represented by the same counsel. Plaintiffs are unwilling to stipulate to a stay here, however, because they contend this action includes an additional claim—the so-called “bundling claim”—that they insist will not be affected by the ultimate result in *Wit*, whatever that may turn out to be. Although plaintiffs have framed the bundling claim as a *subclass* to a main class that is substantially identical to the *Wit* and *Tomlinson* classes, they argue

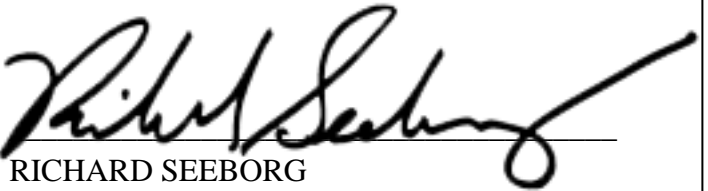
1 it can survive independently even if the main class fails.

2 Whether or not that is correct, however, plaintiffs acknowledge factual issues and
3 discovery will overlap. From that, they conclude no stay of this action is warranted, even though
4 they concede a stay would be appropriate absent the bundling subclass. The better approach,
5 though, is to stay the case notwithstanding the possibility that the *Witt* decision may have less
6 direct effect on the bundling subclass. The potential import of the *Witt* decision on the viability of
7 at least a large part of this case is too great to ignore, and there is no undue prejudice to plaintiffs
8 from a limited stay.

9 Accordingly, the motion is granted, and this action is stayed pending the issuance of the
10 mandate in *Witt*. In the event further proceedings in the Ninth Circuit become unduly protracted,
11 plaintiffs may move to lift the stay.

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13 **IT IS SO ORDERED.**

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15 Dated: July 7, 2022

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18 RICHARD SEEBORG
19 Chief United States District Judge
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